

ADOPTION



**Office of the Staff Judge
Advocate
Eielson AFB, Alaska**

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**Legal Assistance & Preventive
Law
Pamphlet Series**

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INTRODUCTION

This pamphlet is intended to give general guidance on adoption and stepparent adoptions in Alaska which is governed by Title 25, Chapter 23 of the Alaska statutes. Every state has agencies that arrange and supervise adoptions by working with both the adoptive parents and the birth parents to match up adoptive parents with children. Generally, the adoptive parents are responsible for paying the birth mother's medical, legal, and other associated expenses while the adoption process is ongoing. Older children are also available for adoption, although in some cases the parental rights of the birth mother and father have already been terminated by the state.

Actual adoption procedures vary from state to state. Nevertheless, all states require adoptive parents to prepare for the adoption with a social worker. This preparation includes an interview and a home inspection to determine whether they are "fit." Once the social worker and state agency are both satisfied, a court will finalize the adoption. Adoption agencies are listed in the phone book, though it may be best to get a referral from an acquaintance instead.

Generally, in stepparent adoptions, if the other parent consents to the adoption, you will not need an attorney. The Alaska Legal Services at 452-5181, sometimes offers instructional classes for people to file their own adoptions.

In this handout, we will discuss the following:

- Foreign Adoptions
- Giving Up a Child for Adoption
- Alaska Adoption Law (including abandonment by one parent)
- Inheritance Rights of Adopted Children
- Financial Assistance for Adoptions

FOREIGN ADOPTIONS

Many agencies have long waiting periods before children are available for adoption. Therefore, some parents often turn to adopting a child from another country; this, however, can be complicated. Anyone attempting to adopt a child from a foreign country can expect to complete a considerable amount of paperwork and work closely with the U.S. Citizenship and Immigration Services (Military Help Line: 1-877-247-4645). The best idea is to find another parent that has adopted from the country you are considering and then contact the attorney that the person used.

GIVING UP A CHILD FOR ADOPTION

Giving up a child for adoption traditionally meant that the birth mother (and usually father) surrendered all rights and were relieved of all responsibilities with respect to the child. While some states allow a form of open adoption in which the birth parent retains some rights, in most states, including Alaska, adoption terminates all birth parent rights in the child.

Adoption is an irrevocable option. That is, once a certain point has passed, the birth parents cannot change their minds and reinstate their parental rights. Thus, this decision is not one that should be made without consulting both a doctor and a counselor, whether legal or otherwise. Adoption requires that the birth parent sign an agreement to surrender all rights in the child.

Each state has an agency that administers adoptions; in Alaska, it is the Department of Health and Social Services, Office of Children's Services, Adoption Unit (465-3204). Up until the adoption is final, the child often will be placed in foster care. The use of private agencies or a personal arrangement with an individual or couple also may be accomplished. It is, however, illegal for anyone to pay money to another for a child. Even with this prohibition in place, it is allowable for the adoptive parents to pay the

medical expenses and hospitalization costs for the birth mother and child.

A child over ten-years-old also is required to consent to an adoption, unless the court believes that it would be in the child's best interest if the child's consent were not required. A parent who signs a consent form must understand that, unless the court agrees to an alternative arrangement, signing the consent will effectively terminate the parent-child relationship.

Adoptions often occur because one or both parents have abandoned a child. In Alaska, consent to adoption is not required if a court finds that a parent has abandoned a child for a period of at least six months. Abandonment may occur if the parent-child relationship has been destroyed due to a parent's conscious disregard of obligations owed to a child. Parental consent to adoption may not be required if the court determines that said parent (who does not have custody of the child) has significantly failed, for at least one year, to meaningfully communicate with the child or to provide for the care and support of the child without a justifiable cause. (A.S. § 25.23.050).

After the court has received a properly filed petition and other documents, a hearing normally will be held before a judge or probate master to determine whether the court can and should order the adoption to occur. The court must determine that the adoption is in the best interests of the child. The court must also determine whether all of the proper legal steps have been taken to insure that the adoption will not be overturned due, for example, to failure to obtain proper consent of all necessary persons. A person objecting to the adoption may argue at the hearing why the adoption should not occur.

If the court approves of the adoption, a Decree of Adoption is issued. A substitute birth certificate will be issued to reflect the adoption.

ALASKA ADOPTION LAW

To adopt in Alaska, a Petition for Adoption must be filed in the Superior Court. The petition must set forth certain facts about each person who desires to adopt and about the child to be adopted.

Information regarding both of the natural parents of the adoptive child must also be provided in the Petition as well as in a separate form. A certified copy of the child's birth certificate must also be given to the court. If the child is an Indian/Native American child as defined under federal law, additional procedures must be followed to comply with federal regulations. These procedures will not be described in this document.

A husband and wife may adopt a child together. An unmarried person may also adopt, whether or not said person is a parent. The unmarried parent of a child may also adopt.

Generally, the written consent of both biological parents is required prior to the adoption of a child. Consent may also be required of all persons entitled to custody of a child and of other fathers who have adopted the child.

An eligible child is either a person under the age of 18 at the time of the adoption, or a person physically or mentally incapable of taking care of her or himself. A "child with special needs" is an otherwise eligible child: (1) who is a citizen or resident of the United States; (2) the state determines cannot be returned to the parent's home; and (3) who it is reasonable to conclude cannot be placed with adoptive parents without adoption assistance because of a specific factor or condition, such as age, ethnic background, medical condition or handicap.

INHERITANCE RIGHTS

Under the Uniform Probate Code (UPC) adopted by the State of Alaska, inheritance rights between an adopted child and his or her biological parents are terminated, except in stepparent adoptions. If

biological parents or their relatives want to leave property to a child who has been adopted by another family, they must do so by use of a will.

This pamphlet is for basic information on adoption as it relates to military personnel stationed in Alaska. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for questions and further information.



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